

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

U.S. VENTURE, INC., Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	Case No. 18-CV-1757
U.S. VENTURE, INC., Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	Case No. 19-CV-595

UNITED STATES' MOTION FOR SUMMARY JUDGMENT

The United States respectfully moves the Court, pursuant to Fed. R. Civ. P. 56, for an order granting it summary judgment against the plaintiff, U.S. Venture, Inc. (“Venture”). This motion, if granted, will resolve all of the claims that Venture has made against the United States in this case. Venture’s complaint should be dismissed.

Summary judgment should be granted where, as here, there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). This case involves the alternative fuel mixture credit and whether butane is an “alternative fuel.” There are no genuine disputes of material fact that butane does not qualify as an “alternative fuel.” Last week, U.S. Senators Chuck Grassley and Ron Wyden admonished the gas industry for attempting to claim the alternative fuel mixture credit based on mixing butane to make traditional

gasoline. 165 Cong. Rec. S7185 (daily ed. Dec. 19, 2019). For the same reasons Senators Grassley and Wyden explained on the Senate floor, the Court should deny Venture's claim for the alternative fuel mixture tax credit and grant summary judgment in favor of the United States. The floor statements made by Senators Grassley and Wyden are attached to this motion.

In support of this motion, the United States is separately filing the following documents:

1. A statement of undisputed material facts;
2. A supporting brief;
3. A declaration by Trial Attorney Casey S. Smith containing an exhibit index;
4. An appendix containing certain documents cited in the United States' brief;
5. A response and counterstatement to Venture's statement of facts; and
6. Evidentiary objections to statements made in Venture's brief.

Dated: December 26, 2019

Respectfully submitted,

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Principal Deputy Assistant Attorney General

/s/ Casey S. Smith

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